

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Ref: ENF-L

MAR 25 2016

The Honorable Scott Tipton
United States Representative
Washington, D.C. 20515-0603

Dear Congressman Tipton:

Thank you for your letter to Administrator Gina McCarthy of February 19, 2016, regarding Colorado resident Mr. Todd Hennis, his businesses, and his Gladstone and Gold King Mine properties. We appreciate this opportunity to clarify the U.S. Environmental Protection Agency's actions.

The EPA values Mr. Hennis' cooperation with the Agency's efforts to respond to the releases from the Gold King Mine prior to and following the August 5, 2016, incident. The EPA first accessed the Gladstone property and the Gold King Mine property pursuant to a consent for access signed by Mr. Hennis in 2014. In November of 2015, the EPA requested that Mr. Hennis extend that consent for access through December 2016. After several weeks of discussion between the EPA and Mr. Hennis, Mr. Hennis signed a consent for access extending the access to the Gladstone property through the end of March 2016. Mr. Hennis' corporations extended the EPA's access to the Gold King Mine property through December 2016. After recent discussions between Mr. Hennis' attorney and the EPA, Mr. Hennis agreed to extend access to the Gladstone properties through December 31, 2016.

While the EPA's goal is always to achieve consensual access to property, Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e), provides the Agency with significant legal authorities to obtain access in the event a property owner is unwilling to consent to access. The EPA informed Mr. Hennis of these authorities, including CERCLA's penalty provisions, and discussed these authorities at length with Mr. Hennis and his attorney. The EPA has never sought civil penalties from Mr. Hennis or his companies.

Mr. Hennis' attorney sent the EPA a settlement proposal to resolve Mr. Hennis' potential CERCLA liability at the Upper Animas Mining District Site in September 2015. On February 5, 2016, in order to fully and fairly analyze Mr. Hennis' request, the EPA sent Mr. Hennis an information request under the authority of Section 104(e) of CERCLA to gather the information needed to understand Mr. Hennis' activities, ownership, potential involvement in, and relationship to the mining activities the EPA is investigating at the upper Animas Mining District Site. Our evaluation of this information will inform future discussions with Mr. Hennis.

If you or your staff have further concerns, please contact me, or your staff may wish to contact Paula Smith, Acting Regional Congressional Liaison, at (303) 312-6630, or smith.paula@epa.gov.

Sincerely,

Shaun L. McGrath
Regional Administrator